



## **Pending Litigation, EPA Makes Emergency Repairs to Rico Tailings Ponds**

### **River Is Contaminated**

**By Elizabeth Covington**

Heavy-metal laden discharge from the St. Louis and Blaine Tunnels located just north of Rico escaped from a series of settling ponds and dumped into the South Fork of the Dolores River two weeks ago.

Though neither Rico Town Manager Eric Heil nor the U.S. Environmental Protection Agency's On-Scene Coordinator Tien Nguyen expressed too much concern about the amount of contaminated discharge that reached the river, both officials said they are concerned about when the site will be cleaned up. A treatment plant at the mouth of the St. Louis Tunnel has not functioned since the fall of 1996, according to Justice Department Attorney Sheldon Muller.

Contaminated discharge at the site is the subject of litigation brought in the summer of 1999 by the U.S. Justice Department on behalf of the EPA against defendants Wayne Webster, Virginia Sell and Rico Development Corporation. In its complaint, the government asks for injunctive relief requiring the defendants clean up the discharge so that it is in compliance with a state-issued Clean Water Act permit. The government is also asking for monetary penalties for violation of the permit.

With this year's heavy spring run-off, an increase in discharge from the St. Louis filled the first settling pond to capacity. The high water level breached a berm separating the pond from the river.

"I had been sending [the EPA] photos and asking them to deal with the situation before the spring flows," said Heil.

On April 14 an EPA emergency response team arrived on the site and by the following weekend a contractor to remediate the site had been secured.

According to Heil, the EPA team installed a culvert that will properly drain discharge from the first settling pond to the second pond. The team also raised the height of the berm by a foot and a half. Additionally, the team placed rip-rap around the culvert to re-route the discharge in case the culvert fills with sludge.

"I am more concerned about the dike between the pond and the river holding than I am about leaking into the river," said Nguyen. "If that breaks, then the sediment in the pond might get into the river. There is a lot of sludge in the first pond. Someone needs to address long-term remediation of the site."

"I think this work will preserve the site through the spring run-off," said Heil. "However, the beaver activity is plugging up the pipes. The problem is that no one is operating or maintaining the site."

Finding out more about the kinds and levels of heavy metals in the discharge and what is reaching the river should be a priority, said Heil. "I am interested in more sampling and finding out what levels of heavy metals will affect the aquatic habitat. The situation is not

so terrible that the fish are going belly up in the river. However, over the long term, as heavy metals build up in sediments in the river, the metals will move into the food chain and that will be detrimental to the fish and other life in the river."

A cleanup of the site is not soon likely. Reached at his home in Texas, Webster said that he is not responsible for clean-up, and blamed the problem on the beavers and the government. Sell could not be reached for comment. The third defendant, Rico Development Corporation, is a now-defunct Colorado corporation, in which Webster and Sell at one time allegedly held an ownership interest.

Muller said that his hopes for a settlement have faded, in part because Webster recently fired his attorney, and also because Sell is not actively discussing settlement. Therefore, the government will move ahead with litigating the case, and will ask the court to require the defendants to file an answer.

[Back to Home Page](#)